

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
A La Carte and Themed Tier Programming)	
and Pricing Options for Programming)	MB Docket No. 04-207
Distribution on Cable Television and Direct)	
Broadcast Satellite Systems)	
)	
)	

**COMMENTS of the C-SPAN NETWORKS¹
(C-SPAN, C-SPAN2 & C-SPAN3)**

I. Introduction

The genius of the cable operator founders of the C-SPAN Networks (hereafter, "C-SPAN") is that they are the only people in the history of television to figure out a way for public affairs television to pay for itself. They understood that it would be impossible for niche programming services such as C-SPAN, C-SPAN2 and C-SPAN3 to sustain themselves as viable businesses under the traditional broadcast business model. They also understood that C-SPAN could thrive under the cable business model, as indeed, it has. Now, the Commission is studying an a la carte pricing requirement for cable programmers -- a proposal that, if implemented, would undermine the distinctive element of the cable television business model that has been critical to

¹ The C-SPAN Networks are full time satellite delivered public affairs television programming services available primarily via cable television, and devoted entirely to information and public affairs, including the live gavel-to-gavel coverage of the proceedings of the U.S. House of Representatives (on C-SPAN), the U.S. Senate (on C-SPAN2) and a variety of other events at public fora around the country and the world. The C-SPAN Networks also include C-SPAN3, a fulltime digital programming service launched in January of 2001. The C-SPAN Networks are produced and distributed by the National Cable Satellite Corporation ("NCSC"), a non-profit educational corporation in the District of Columbia. NCSC is exempt from federal income tax pursuant to I.R.C. Sec. 501(c)(3).

the creation and success of C-SPAN and of other programming services.

II. Regardless of What Some Policy Makers Think They Know About C-SPAN, It is *Not* Insulated from the Effects of an A La Carte Pricing Requirement

Despite the high levels of awareness and viewership that C-SPAN enjoys among the political/governmental segment of the television audience, there persists in that audience at least two significant mistaken beliefs about how C-SPAN is organized and how it operates. First, some hold the erroneous view that C-SPAN's revenue comes exclusively or primarily from cable television operators who make annual discretionary contributions to our operations. It does not. C-SPAN is a business organized as a non-profit corporation that generates revenue from the sale of its programming services to multichannel video programming distributors. C-SPAN has never sought and does not rely on contributions from any person or entity to fund its public affairs programming operations.²

Second, others believe, also erroneously, that C-SPAN is somehow connected to the government in general, or to the Congress in particular and therefore derives some, most or all of its revenue from taxpayer funds. Again, this belief is wrong. C-SPAN has never received a single dollar of taxpayer money at any time during its twenty-five year history.

An accurate understanding of the source of C-SPAN's revenue is important in this discussion of a la carte pricing because it undercuts the view that C-SPAN would be somehow unaffected by such pricing. An a la carte pricing requirement would force a dramatic restructuring of C-SPAN's business plan just to maintain current revenues, if indeed that is even possible [See Section IV of these Comments]. C-SPAN's response to a la carte pricing would *not* be simply a request for more funding from non-existent cable operator donors or from a congressional appropriations committee.

III. The C-SPAN Business Model: Although It is a Non-Profit Organization, C-SPAN Operates Much Like For-Profit Cable Programmers and Will Be Affected By an A La Carte Pricing Requirement in Much the Same Way

C-SPAN has much in common with other cable programmers in that it depends on license fees from its distributors for revenue. However, unlike many programmers who enjoy a dual income stream consisting of both license fees and advertising revenue, C-SPAN carries no advertising and relies almost exclusively on license fees for its revenue.³ Carriage of C-SPAN,

² However, generous cable operators have made charitable contributions to a separate entity known as the C-SPAN Education Foundation. The Foundation funds educational programs such as video equipment grants for schools and fellowships for teachers who use C-SPAN programming in their teaching. No Foundation funds are used for C-SPAN's operating expenses.

³ Approximately 98% to 99% of C-SPAN's revenue comes from license fees paid by distributors (cable operators and direct to home satellite providers). The balance is derived from investments and some retail sales.

C-SPAN2 and C-SPAN3 on cable systems is pursuant to the terms of individually negotiated carriage contracts with cable operators, including the MSOs, single system operators and the National Cable Television Cooperative.⁴ Distinctive and important provisions in our carriage contracts are that all our distributors are offered the same license fee, and that once the fee for carrying C-SPAN is paid, C-SPAN2 and C-SPAN3 may be carried without additional cost.⁵

There is no "must carry" requirement imposed by government or self-imposed by the cable industry that applies to any of C-SPAN's programming services. C-SPAN enjoys broad carriage on cable systems because operators have concluded that it adds value to the broad mix of programming options they offer their customers.

IV. An A La Carte Pricing Requirement Would Destroy the Economic Model Upon Which C-SPAN Depends for a Reliable and Sufficient Level of Revenue That Supports Its Public Service Programming

We have not done any economic modeling to predict how many of the 74 million cable television subscribers would elect to pay for one or all of the C-SPAN programming services on an a la carte basis, but we are certain it would be fewer than would elect to pay separately for many of the entertainment or sports based cable networks.⁶ If a realistic take-rate for a popular programming service in an a la carte environment is 25%,⁷ the take-rate for C-SPAN or C-SPAN2 would be considerably less. A very generous assumption would be that C-SPAN, as a niche service, might attain a take-rate of perhaps 10% of the cable subscribing audience.

Using that assumption, and if C-SPAN's license fee continued to be paid on a per-subscriber basis, our revenue would decrease by 90%. A ten-fold increase in the average per-subscriber license fee of 5 cents (to 50 cents per subscriber) would be required to offset the revenue loss. Even so, that is an increase only in the wholesale cost to the cable operator. The retail price a cable operator might charge the subscriber is unknown (and perhaps even

⁴ The C-SPAN Networks also have carriage agreements with the two major satellite multichannel video distributors.

⁵ This "same deal for all" fee approach has contributed to achieving broad carriage of the C-SPAN Networks. As of today, C-SPAN is available to 99% of subscribers to all multichannel video distributors (including the satellite distributors), C-SPAN2 is available to 84% of such subscribers, and C-SPAN3 is available to 36% of the cable industry's approximately 22 million digital cable customers. C-SPAN3 is not carried by the satellite distributors.

⁶ Without advertising, the C-SPAN Networks lack the wealth of viewership data that comes from the television audience ratings services that would be the foundation of any predictive studies on the effect of a la carte pricing on revenue.

⁷ See: "NCTA Policy Paper: The Pitfalls of A La Carte: Fewer Choices, Less Diversity, Higher Prices," May 2004 at 10; a Bear Stearns model of effects of a la carte pricing on a package of five popular services -- the Disney Channel, ESPN, MTV, Fox News and TBS.

unknowable at this point).

Without the advertising revenue stream enjoyed by many other basic programmers, a license fee increase would be C-SPAN's only means of increasing revenue. The ten-fold increase in our license fee would permit us to maintain current levels of programming, but it would not provide any margin to invest in the marketing infrastructure that would be required of every programmer in the a la carte environment. The costs of establishing and maintaining nationwide awareness campaigns to create and sustain a consumer demand for each program service are measured in the multiple millions of dollars. Although C-SPAN currently maintains some promotional resources, they are not nearly equal to the task presented by the new marketing world created by a la carte pricing. Assuming that at best C-SPAN would be able to maintain its revenue level in the new environment, the significant marketing costs would invariably limit resources available to the production of quality public affairs programming.

V. In C-SPAN's Case the Effect of A La Carte Pricing Is Truly Insidious -- We *Might* Lose Only Some Revenue, But Marketing Costs *Will* Skyrocket and the Cable Industry's Achievement of Creating a Broadly Available Public Service *Will* be Lost.

Under the rosiest scenario it is theoretically possible that C-SPAN's relatively low take-rate combined with a broad acceptance of a significant increase in its license fee could mean that its current revenue remains intact, or does not drop drastically. But that scenario ignores the effect of the tremendous new marketing costs on C-SPAN's ability to maintain its current level of operations, including its significant educational efforts such as its award winning C-SPAN in the Classroom program. It is difficult to know at this point where the cuts might be made, but in the face of huge new marketing costs it is certain that they will be made.

But as bad as an elimination or reduction of educational efforts may seem, and as bad as fewer or less frequent programming initiatives may seem, these losses pale against the certainty that C-SPAN's programming will be available in fewer American households. Under an a la carte regime C-SPAN simply can not fulfill its mission of making its unique form of public affairs programming available to as many Americans as possible. A 90 per cent loss of audience reach is a failure of that mission.

It neither sensible nor persuasive to say in response that a la carte pricing will give C-SPAN the audience it deserves. One of the strongest appeals of C-SPAN as a niche programming service, and particularly as a public affairs service, is that it is now widely enough available to easily capture the full breadth of occasional audiences created by the constantly changing national debate. We do not fulfill our mission by speaking only to the already committed policy wonks and activists. Our audience changes as the issues change. A la carte pricing destroys the ease with which those occasional audiences are able to see their government in action.

Such is the insidious effect of the proposed pricing policy -- C-SPAN could well survive as a business under a la carte, but much of what C-SPAN's founders envisioned as a public service for the country would be lost.

VI. Conclusion

The Commission has heard this general point from C-SPAN before: it seems that whenever Congress interferes with the free market of cable television, C-SPAN's public service efforts are harmed in some way. It happened with rate regulation and with analog must carry. In both instances C-SPAN either lost audience reach or its growth came to a standstill.

Now, the prospect of an a la carte pricing regulation promises to repeat that history by undermining the only business model in the television industry that has allowed pure public affairs programming to pay for itself. When left alone, the cable television business model has been able to create and sustain a wealth of programming options including C-SPAN's unique brand of public affairs television. Our history tells us that if an a la carte pricing scheme is put in place, it will be yet another instance of good intentions gone awry.

It will be the killing of the goose that has laid so many golden eggs.

Respectfully submitted,

THE C-SPAN NETWORKS

By:

Bruce D. Collins, Esq.
Corporate V.P. & General Counsel
Suite 650
400 North Capitol Street, N.W.
Washington, D.C. 20001
(202) 626-7958

July 15, 2004